

### REMARKS/ARGUMENTS

By this Preliminary Amendment, certain claims have been amended and new claims have been added to more completely cover the subject matter of applicants' disclosure.

Claims 3 and 39 have been amended to omit the requirement of a lower attached to the upper as such feature is not believed to be necessary for patentability. As amended, the outsole attaches directly or indirectly to the upper.

Claims 3 and 15 have been amended to recite that the first material has a ground contacting portion that is "free of fabric material." These claims were previously allowed and none of the newly listed documents in the accompanying information disclosure statement ("IDS") bear on this feature. Consequently, these claims are submitted to be in condition for allowance for the reasons that they were previously allowed.

Newly presented claims 47 and 52 recite an outsole and shoe, respectively, having multi-material ground contacting surfaces that attach to a shoe upper along a bare region not covered by a fabric part. The closest prior art is believed to be the Otis (et al.) patent cited in the accompanying IDS, yet Otis has a single material ground contacting surface (namely, fabric).

Applicants hereby reserve the right to claim priority from the Otis (et al.) patent should the need arise.

Newly presented independent claim 55 concerns a shank and heeled shoe with multi-material ground contacting surfaces including a fabric layer moldably embedded into a backing

(M:\0851\01118\00035986.DOC [REDACTED])

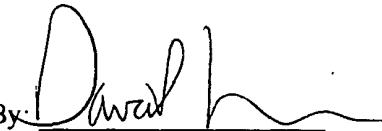
Appl. No. 09/804,066  
Amdt. Dated August 8, 2003

part. The art of record does not teach or suggest this combination of features with a connection to an upper along a visible bare region of the backing part.

Applicant respectfully requests that a Notice of Allowance be issued in this case.

Respectfully submitted,

Dated: August 8, 2003

By:   
David Leason  
Reg. No. 36,195  
Attorney for Applicants

Darby & Darby P.C.  
Post Office Box 5257  
New York, NY 10150-5257  
212-527-7700

{M:\0851\01118\00035986.DOC 101118111111}

Appl. No. 09/804,066  
Amdt. Dated August 8, 2003